

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**PRIME HEALTHCARE SERVICES –  
ENCINO HOSPITAL, LLC d/b/a ENCINO  
HOSPITAL MEDICAL CENTER**

and

**Case No.      31-CA-131701  
                    31-CA-140827**

**SEIU UNITED HEALTHCARE  
WORKERS – WEST**

**PRIME HEALTHCARE SERVICES –  
GARDEN GROVE, LLC d/b/a GARDEN  
GROVE HOSPITAL AND MEDICAL CENTER**

and

**Case No.      21-CA-131714  
                    31-CA-140844**

**SEIU UNITED HEALTHCARE  
WORKERS – WEST**

**PRIME HEALTHCARE  
CENTINELA, LLC d/b/a CENTINELA  
HOSPITAL MEDICAL CENTER**

and

**Case No.      31-CA-131703  
                    31-CA-141016**

**SEIU UNITED HEALTHCARE  
WORKERS – WEST**

**RESPONDENTS' EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE  
LISA D. THOMPSON'S DECISION**

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board (“Board”), Respondents Prime Healthcare Services - Encino, LLC d/b/a Encino Hospital Medical Center (“Encino”); Prime Healthcare Services - Garden Grove, LLC d/b/a Garden Grove Hospital & Medical Center (“Garden Grove”) and Prime Healthcare Centinela, LLC d/b/a Centinela Hospital Medical Center (“Centinela”; together with Encino and Garden Grove, the “Hospitals”) respectfully submit their Exceptions to the February 18, 2016 Decision (“Decision”) of Administrative Law Judge (“ALJ”) Lisa D. Thompson.

### **EXCEPTIONS**

1. ALJ Thompson erred in crediting Greg Pullman’s interpretation of the phrase “absent an MOU” over Mary Schottmiller’s. (Decision at 7:24-8:24.) This finding is not supported by the evidence.

2. ALJ Thompson erred in finding that, as of November 10, 2014 at 12:04 p.m., Prime agreed to the terms of a CBA for the Hospitals. (Decision at 8:22-24.) This finding is not supported by the evidence or the law.

3. ALJ Thompson erred in finding that Mary Schottmiller had authority to bind the Hospitals to the terms of a successor CBA contract. (Decision at 11:11-12:11.) This finding is not supported by the evidence or the law.

4. ALJ Thompson erred in finding that “at no time, did [Dr. Prem Reddy, Mike Sarian, or Troy Schell] disavow [Mary Schottmiller’s authority to act/negotiate on Prime’s behalf. In addition, no one from prime ever told the Union that Schottmiller needed permission from Reddy to negotiate/bind Prime to an agreement.” (Decision at 11:31-34.) This finding is not supported by the evidence or the law.

5. ALJ Thompson erred by finding that “record evidence proves that the parties reached agreement on the terms for the hospitals’ CBA on November 10, 2014.” (Decision at 12:20-21.) This finding is not supported by the evidence or the law.

6. ALJ Thompson erred by finding that the phrase “even absent an MOU” “unequivocally removed *any* condition that agreement on the CBA was contingent on reaching agreement on any other component of the global MOU (i.e. reaching agreement on the [Daughters of Charity] deal).” (Decision at 12:22-25.) This finding is not supported by the evidence or the law.

7. ALJ Thompson erred in finding that the parties came to a meeting of the minds on the CBA for the Hospitals. (Decision at 13:12-16:17.) This finding is not supported by the evidence or the law.

8. ALJ Thompson erred in finding that the parties came to a meeting of the minds on the California Differential term for the Hospitals. (Decision at 13:27-32). This finding is not supported by the evidence or the law.

9. ALJ Thompson erred in holding that an agreement was reached for a successor CBA at the Hospitals was based on the status quo of the existing CBAs. (Decision at 14:15-21.) This holding is not supported by the evidence or the law.

10. ALJ Thompson erred in ignoring the undisputed evidence that the parties expressly excluded the California Differential term from any agreement to maintain the status quo from the existing CBAs. (Decision at 13:27-33; 14:15-22.) This decision is not supported by the evidence or the law.

11. ALJ Thompson erred in finding that “since the parties failed to specifically change the language regarding the differential, based on their agreement about what would

happen if there was a failure to agree on any specific change, they have agreed to return to the California differential language as it read in the original CBA with Centinela.” (Decision at 14:17-19.) This finding is not supported by the evidence or the law.

12. ALJ Thompson erred in finding that “when the parties reached agreement on November 10, 2014, on all of the remaining terms of the hospitals’ CBA, there was a meeting of the minds on all of the material and substantive terms, and accordingly, a contract was formed.” (Decision at 14:19-22.) This finding is not supported by the evidence or the law.

13. ALJ Thompson erred finding that an agreement was reached despite finding that the parties had not agreed on a material term. (Decision at 13:18-25, 14:8-14.) This finding is not supported by the evidence or the law.

14. ALJ Thompson erred in finding that the defense of mutual mistake is “inapplicable, because the parties agreed that, if they failed to specifically change any language, they agreed to revert back to the language in the current CBA. Since the parties failed to change the differential language (because it was not finalized), they have agreed to return to the language in the current CBA.” (Decision at 14:27-30.) This finding is not supported by the evidence or the law.

15. ALJ Thompson erred in finding that any purported agreement for the Hospitals was not voidable as a mutual mistake. (Decision at 14:23-40.) This finding is not supported by the evidence or the law.

16. ALJ Thompson erred in finding “there was no mutual mistake as to the terms of the differential, because Pullman, who ultimately negotiated the final terms, was unaware of what Schottmiller and Ruppert previously negotiated regarding the differential.” (Decision at 14:38-40). This finding is not supported by the evidence or the law.

17. ALJ Thompson erred in finding that any purported agreement for the Hospitals was not voidable as a unilateral mistake. (Decision at 14:42-16:13.) This finding is not supported by the evidence or the law.

18. ALJ Thompson erred in finding that “even assuming Respondents made a bona fide mistake regarding agreement on the differential, their mistake was not so obvious as to put the Union (i.e. Pullman) on notice that Respondents’ clearly manifested assent was made in error.” (Decision at 15:4-6.) This finding is not supported by the evidence or the law.

19. ALJ Thompson erred by finding that “While Respondents contend that Ruppert’s knowledge about the status of eliminating the differential is imputed to the Union, even if true, it makes no difference, because, ultimately, the differential language was not finalized, and as such, the parties already agreed that anything not specifically changed would revert back to the language in the original CBA.” (Decision at 15:34-38.) This finding is not supported by the evidence or the law.

20. ALJ Thompson erred in finding that “Schottmiller [was] the only one privy to the discussions on eliminating the differential...” (Decision at 15:40-41.) This finding is not supported by the evidence.

21. ALJ Thompson erred in finding that “the Union had no way of knowing that Schottmiller’s representation about the differential was a ‘mistake.’ Schottmiller’s error was not so obvious to justify rescission under *Apache Powder*.” (Decision at 16:9-12.) This finding is not supported by the evidence or the law.

22. ALJ Thompson erred by concluding that “on November 10, 2014, Respondents and the Union reached an unconditional and complete agreement on all substantive and material terms to be incorporated into a CBA covering bargaining unit employees at Encino, Garden

Grove, and Centinela. When Respondents refused to execute that agreement, they violated Section 8(a)(5) and (1) of the Act.” (Decision at 16:14-17.) This conclusion is not supported by the evidence or the law.

23. ALJ Thompson’s Decision was in error because it is the General Counsel’s burden both to prove an agreement and to prove that the terms of the purported agreement accurately reflect the agreement reached by the parties. (Decision at 13:14-16:17.) This error is contrary to the law.

24. ALJ Thompson’s Decision was in error because it improperly imposed an agreement on the parties (Decision at 15:14-17.) This error is contrary to the law.

25. ALJ Thompson erred in recommending the remedies set forth in the Decision (Decision at 17:1-17.) These remedies are not supported by the evidence or the law.

26. ALJ Thompson erred in recommending the order set forth in the Decision (Decision at 17:30-18:26.) This order is not supported by the evidence or the law.

Respectfully Submitted,

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Dated: March 17, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 17th day of March, 2016, copies of the foregoing 1)  
Respondents' Exceptions to Administrative Law Judge Lisa D. Thompson's Decision and 2)  
Brief in Support of Respondents' Exceptions to Administrative Law Judge Lisa D. Thompson's  
Decision were filed electronically and copies were sent via e-mail and first-class mail to the  
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